

HOUSE BILL NO. 1196

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RICHEY.

2452H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 173, RSMo, by adding thereto one new section relating to prohibiting ideological discrimination in postsecondary education.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 173, RSMo, is amended by adding thereto one new section, to be known as section 173.2176, to read as follows:

173.2176. 1. As used in this section, the following terms mean:

- (1) "Applicant", an individual or entity that applies to an institution for employment, admission, or as a potential contractor;
- (2) "Contractor", an individual or entity engaged by an institution for the purpose of providing goods or services to such institution but that is not an employee of such institution;
- (3) "Discriminatory ideology", an ideology that promotes the differential treatment of any individual or group of individuals based on immutable characteristics of race, color, religion, sex, gender, ethnicity, national origin, or ancestry;
- (4) "Diversity, equity, and inclusion statement", a written or oral communication relating to the applicant's, employee's, student's, or contractor's:
- (a) Race, color, religion, sex, gender, ethnicity, national origin, or ancestry, except when necessary to record required demographic information of such individual;
 - (b) Views on, experience with, or past or planned contributions to efforts involving:
 - a. Diversity, equity, and inclusion;
 - b. Marginalized groups;

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 18 **c. Antiracism;**
19 **d. Social justice;**
20 **e. Intersectionality; or**
21 **f. Related concepts; or**
22 **(c) Views on or experience with race, color, religion, sex, gender, ethnicity,**
23 **national origin, ancestry, or other immutable characteristics of students and coworkers;**
24 **(5) "Employee", an individual employed by an institution;**
25 **(6) "Entity", a corporation, partnership, limited liability company, business**
26 **trust, trust, association, other organization, other legal entity, or a protected series or**
27 **registered series of a domestic limited liability company;**
28 **(7) "Institution", any public institution of postsecondary education or**
29 **proprietary school in this state that is subject to the coordinating board for higher**
30 **education under section 173.005;**
31 **(8) "Preferential consideration", any act that positively impacts an individual's**
32 **or entity's admission to, employment with, engagement as a contractor by, or promotion**
33 **within an institution including, but not limited to:**
34 **(a) Applications for admissions, aid, assistance, and benefits for which the**
35 **individual or entity is eligible; and**
36 **(b) Employment terms, benefits, seniority status, promotions, transfers, and**
37 **appointments for which the individual or entity is eligible;**
38 **(9) "Proprietary school", the same definition as in section 173.600;**
39 **(10) "Student", an individual enrolled as a student at an institution.**
40 **2. No institution shall:**
41 **(1) Compel, require, induce, or solicit any applicant, employee, student, or**
42 **contractor to endorse any discriminatory ideology;**
43 **(2) Compel, require, induce, or solicit any applicant, employee, student, or**
44 **contractor to submit a diversity, equity, and inclusion statement; or**
45 **(3) Provide preferential consideration to any applicant, employee, student, or**
46 **contractor on the basis of such individual's or entity's submission of an unsolicited**
47 **statement relating to a discriminatory ideology.**
48 **3. No provision of this section shall be construed to:**
49 **(1) Restrict academic research or coursework;**
50 **(2) Prevent an institution from requiring an applicant to:**
51 **(a) Disclose or discuss the content of such applicant's research or artistic**
52 **creations;**
53 **(b) Certify compliance with state and federal antidiscrimination law; or**

54 (c) Discuss pedagogical approaches or experience with students with learning
55 disabilities; or

56 (3) Prevent an applicant or candidate from providing, on such applicant's or
57 candidate's own initiative and under no specific requirement or request from the
58 institution, any information described in subsection 2 or 3 of this section.

59 4. (1) An applicant, employee, student, or contractor who is compelled,
60 required, induced, or solicited to endorse a discriminatory ideology or submit a
61 diversity, equity, and inclusion statement or who is adversely affected by an institution's
62 preferential consideration of another for such individual's or entity's unsolicited
63 statement relating to a discriminatory ideology in violation of subsection 2 or 3 of this
64 section may pursue an action for injunctive or declaratory relief against such institution.

65 (2) An injunction granted under this subsection in favor of an applicant,
66 employee, student, or contractor against an institution because of a violation of
67 subsection 2 or 3 of this section may include an order requiring the institution to:

68 (a) Admit the applicant for enrollment as a student;

69 (b) Reenroll a student who was suspended or expelled;

70 (c) Hire an individual for the position for which such individual's employment
71 application was rejected;

72 (d) Rehire in the same or equal position an employee who was dispossessed of
73 such employee's job;

74 (e) Promote an employee who was denied a promotion; or

75 (f) Provide tenure to an employee who was denied tenure.

76 (3) All claims of sovereign or governmental immunity for an institution relating
77 to claims filed under this subsection against such institution are hereby waived.

78 (4) Notwithstanding any other provision of law to the contrary, an individual or
79 entity may commence an action under this subsection and relief may be granted
80 regardless of whether such individual or entity seeks or exhausts other available
81 administrative or legal remedies.

82 (5) The court may award reasonable attorney's fees and court costs to the
83 prevailing party.

84 5. (1) Any employee, whether tenured, employed at-will, or working under a
85 contract, who violates this subsection shall be disciplined by the employee's employer
86 for the reasons and in the manner provided under subdivisions (2) and (3) of this
87 subsection.

88 (2) An employer shall discipline an employee described in subdivision (1) of this
89 subsection as provided in subdivision (3) of this subsection if such employee is found to
90 have:

91 **(a) Compelled, required, or induced an applicant, employee, student, or**
92 **contractor to endorse a discriminatory ideology or provide a diversity, equity, and**
93 **inclusion statement; or**

94 **(b) Provided preferential consideration to an applicant, employee, student, or**
95 **contractor on the basis of such individual's or entity's submission of an unsolicited**
96 **statement relating to a discriminatory ideology.**

97 **(3) (a) Upon a first finding that an employee has engaged in conduct described**
98 **in subdivision (2) of this subsection, such employee shall be placed on unpaid leave for**
99 **the next academic year and shall be ineligible for employment at any other institution in**
100 **this state during such unpaid leave.**

101 **(b) Upon a second or subsequent finding that such employee has engaged in**
102 **conduct described in subdivision (2) of this subsection, such employee shall be**
103 **terminated from employment and shall be ineligible for employment at any institution**
104 **in this state for at least five years after the date of the second or subsequent finding.**

105 **6. Each institution's office of general counsel or substantially equivalent office**
106 **shall annually submit a written report on compliance with this section to the speaker of**
107 **the house of representatives and senate president pro tempore.**

✓